

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2119.04
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	April 28, 2004
DATE OF REPORT:	May 25, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	September 8, 2004

**COMPLAINT ISSUES:**

Whether Manchester Community Schools and Wabash-Miami Programs for Exceptional Children violated:

511 IAC 7-25-4(b) by failing to conduct an initial educational evaluation and convene the case conference committee (CCC) within 60 instructional days of the date the written parental consent is received by certified personnel; and

511 IAC 7-22-1(d)(1) by failing to provide the parent with a copy of the notice of procedural safeguards at the time of an initial referral for evaluation.

**FINDINGS OF FACT:**

1. Student A is thirteen years old and attends the local junior high school ("School A"). Student B is nine years old and attends the local elementary school ("School B"). Both students are awaiting the determination of eligibility for special education.
2. Student A was diagnosed with Attention Deficit Disorder in first grade, has since been diagnosed with Asperger Syndrome, and has suffered a marked decline in academic performance since third grade. Student A was determined ineligible for special education and related services in fifth grade. The Complainant informed the principal of School A of the Asperger Syndrome diagnosis on October 27, 2003. On December 4, 2003, the Complainant requested a meeting in writing "to explore the possibility of creating modifications in the delivery of [Student A's] education" through special education or Section 504. On January 13, 2004, the Complainant asked the guidance counselor whether a meeting was necessary to request an evaluation or whether a verbal request for an evaluation was enough (the Complainant had verbally requested an evaluation on January 7). A Referral for Consultation, indicating that the Complainant wanted another initial evaluation completed, was filled out by the guidance counselor and the principal on January 13. The evaluation was completed on March 29, 2004. The CCC has not yet convened.
3. The Complainant also voiced concern about Student B, who had been diagnosed with ADHD and Bipolar Disorder. The Complainant wrote to the principal of School B on February 3, 2004, to follow up on a request for evaluation "regarding [Student B] last fall." On February 12, the principal of School B wrote that she had contacted the area program but had not completed the proper paperwork "that would place [Student B] in the lineup for assessment." The principal apologized. The Referral for Consultation was filled out on February 10, 2004; however, the Complainant said that a verbal request for an evaluation was given on October 23, 2003. The February 12 letter from the principal indicates an

apparent recognition of the prior request. The School reports that no educational evaluation has been completed for Student B.

4. The Complainant reports not receiving a copy of the procedural safeguards upon the request for an evaluation for either student. The Director of Special Education acknowledges that the procedural safeguards were not sent out.

#### **CONCLUSIONS:**

1. Finding of Fact #2 indicates that the CCC for Student A was not convened within 60 instructional days of the date of the request for the evaluation. Finding of Fact #3 indicates that the evaluation for Student B has not been completed and the CCC has not convened within 60 instructional days of the request, as required. Therefore, a violation of 511 IAC 7-25-4(b) has been found.
2. Finding of Fact #4 indicates that the procedural safeguards were not provided to the Complainant at the time of the request for an evaluation of Student A or Student B. Therefore, a violation of 511 IAC 7-22-1(d)(1) has been found.

**The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.**

#### **CORRECTIVE ACTION:**

Manchester Community Schools and Wabash-Miami Programs for Exceptional Children shall:

1. complete the evaluation for Student B. **Send the evaluation report to the Division by September 8, 2004.**
2. convene CCC meetings for Student A and Student B at the beginning of the 2004-2005 school year, for the purpose of determining whether they qualify for special education, and if so, to develop a plan for their educational services and accommodations. If either student is found eligible, the CCC should determine the need for compensatory educational services due to the delay. If compensatory services are needed, they should be included in the IEP. **Provide CCC Reports for both students to the Division, with information about eligibility and possible compensatory services, by September 8, 2004.**
3. provide notice of procedural safeguards to the Complainant immediately. **Obtain a signed receipt, verifying delivery of the notice of procedural safeguards, and send to the Division by June 16, 2004.**
4. provide an assurance statement to the Division that appropriate staff members have been notified of the times when procedural safeguards are to be provided to parents. **Send the assurance statement to the Division, with a list of staff members notified, by June 16, 2004.**